



DECLARATION OF ENVIRONMENTAL COVENANT

This DECLARATION OF ENVIRONMENTAL COVENANT is hereby declared and granted as of this 19th day of JUNE, 2017, by **THE STATE OF MAINE, THROUGH AND BY THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, in its capacity as Receiver, an Agency organized and existing under the laws of the State of Maine and located at 28 Tyson Drive, Augusta, Kennebec County, State of Maine ("Grantor"), to the **MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION** ("DEP" or "Holder") on property located in the Town of Hope, ("Town") Knox County, Maine, as more fully described below.

WHEREAS, the Town was the record owner in fee simple of two certain lots or parcels of land totaling approximately 12.5 acres in size located on Route 17 in **Hope, Knox County**, Maine, and referenced in certain tax lien certificates recorded in the Knox County Registry of Deeds as follows and foreclosed by operation of law: **Book 958, Page 252; Book 958, Page 253; Book 1017, Page 30; and Book 1017, Page 31**, and being depicted, as of the April 1, 2014 assessment date, on the Town of Hope **Tax Map 8 as Lots 18 and 19** ("Property");

WHEREAS, DEP was appointed Receiver of the Property by Court Order in the civil action encaptioned *Kenneth C. Young, Jr., (as substitute party for Henry E. Warren), Commissioner of Environmental Protection v. Union Chemical Company, et al.*, Docket No. CV-84-199 (Maine Superior Court, Kennebec County) on June 5, 1986, which Order recited "the Court hereby declares that the entire Site is placed in receivership. The Court appoints the Commissioner as Receiver for the limited purpose of completing the cleanup of the Site."

WHEREAS, in further accordance with said Order of June 5, 1986, on August 21, 1986, the municipal officers of the Town of Hope executed a Quitclaim Deed on behalf of the Town transferring its interests in the Property to the Commissioner of DEP as Receiver, which such original deed was lost or misplaced and was never recorded at the Knox County Registry of Deeds;

WHEREAS, the Property is also known as the Union Chemical Company, Inc. Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA") placed on the National Priorities List pursuant to § 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on October 4, 1989 (54 Fed. Reg. 41000);

WHEREAS, the Property is also an Uncontrolled Hazardous Substance Site designated by DEP on March 30, 1984 pursuant to 38 M.R.S. §§ 1364 and 1365.

WHEREAS, separate and joint EPA and DEP removal actions were undertaken, including the removal of barrels, liquids and all but two large storage tanks from the Site;

WHEREAS, environmental samples showed that the groundwater, surface water and soils on the Site were contaminated by the Union Chemical Company operations;

WHEREAS, in a Record of Decision dated December 27, 1990 (the "1990 ROD"), the EPA, with the concurrence of the DEP, selected a remedial action for the Site ("Remedial Action" which together with the above-described removal actions shall be hereinafter referred to as the "Environmental Response Project"), which provides, in part, for the following actions to address remaining site contamination:

- a. Soil Extraction and On-Site Low-Temperature Soil Aeration Treatment;
- b. Vacuum-Enhanced Groundwater Extraction, On-Site Groundwater Treatment, and On-Site Discharge of Treated Groundwater into Quiggle Brook, which includes Establishment of Institutional Controls During the Remedial Design/Remedial Action, including but not limited to deed restrictions;
- c. Facilities Decontamination and Demolition, and Off-Site Disposal of Debris;
- d. Limited Action for Off-Site Soils; and
- e. Five-year reviews to assess protectiveness.

WHEREAS, a Consent Decree, Civil Action No. 91-0392-P-C, entered by the United States District Court for the District of Maine on June 16, 1992, requires implementation of the Remedial Action selected in the ROD;

WHEREAS, in an Explanation Of Significant Differences, dated June 30, 1994 (the "1994 ESD"), the EPA, with the support of the DEP, changed the Remedial Action approach in the 1990 ROD for meeting performance standards for the contaminated soil in the source area from Low-Temperature Soil Aeration Treatment to in-situ soil vapor extraction;

WHEREAS, in an Explanation Of Significant Differences dated September 25, 1997 (the "1997 ESD"), the EPA, with concurrence of the DEP, changed the Remedial Action approach in the 1990 ROD of Limited Action for Off-Site Soils by: decreasing the length of time for meteorological data collection from five years to three years, replacing the two air modeling simulations with one modeling simulation and a comparison of the three years of data, and accelerating the time table for sampling and analysis of the off-site soils;

WHEREAS, in an Explanation Of Significant Differences, dated September 28, 2001 (the "2001 ESD"), the EPA, with agreement of the DEP, changed the Remedial Action approach in the 1990 ROD by enhancing the groundwater treatment approach with *in-situ* technologies and changing the discharge location for the treated groundwater;

WHEREAS, in the Record of Decision Amendment, dated November 27, 2013 (the "2013 AROD"), the EPA, with concurrence of the DEP, amended the Remedial Action approach in the 1990 ROD for rapid restoration of contaminated groundwater throughout the Site through an active groundwater pump-and-treat system to attain groundwater cleanup levels within a reasonable timeframe by invoking a technical impracticability waiver (TI Waiver) of the requirement to meet federal and state groundwater standards within a portion of the Site, and adjusted the long-term monitoring and institutional control requirements of the 1990 ROD to support the TI Waiver approach

Union Chemical Company, Inc. Superfund Site, Route 17, Hope
Declaration of Environmental Covenant

WHEREAS, the 2013 AROD requires an environmental deed restriction on the Property to, at a minimum,

- a. prohibit the use of groundwater:
- b. ensure access for monitoring and oversight:
- c. prohibit activities that interfere with the remedy and on-site monitoring equipment, and
- d. require the application of appropriate vapor barrier or remediation technology in any future buildings on the Site property.

WHEREAS, Grantor as Receiver has agreed to activity and use restrictions on the Property; and

WHEREAS, Grantor as Receiver intends to create and grant an Environmental Covenant pursuant to the Uniform Environmental Covenants Act, 38 M.R.S. §§ 3001 et. seq. (“UECA”).

WHEREAS, 38 M.R.S. § 3004(E) provides that an agency may waive signature of the fee owner of the Property, except a fee simple owner that is an occupant of the Property.

WHEREAS, there is no fee owner currently occupying the Property.

WHEREAS, UECA under 38 M.R.S. §§ 3005(2)(I) the DEP may be both the Grantor and Holder of an Environmental Covenant.

NOW, THEREFORE, Grantor **THE STATE OF MAINE ACTING BY AND THROUGH THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, as Receiver, for and in consideration of the facts above recited and the covenants herein contained, and intending to create and be legally bound by a perpetual covenant running with the land, subject to the terms hereof, hereby declares, covenants and agrees as follows:

1. Declaration of Environmental Covenant. This instrument is an Environmental Covenant executed pursuant to the UECA.
2. Property. This Environmental Covenant concerns the Property as described herein.
3. Activity and Use Limitations. The following covenants, conditions and restrictions shall run with the land, and shall be binding in perpetuity on the Property and on the Grantor and its successors and assigns during their respective periods of ownership:
 - a. Except for environmental cleanup activities directed by EPA and DEP (collectively “the Agencies”), groundwater on the Property shall not be extracted without the express written permission of the Agencies.

- b. Environmental Response Project wells within the Property shall not be destroyed, obstructed, tampered with or otherwise disturbed. Wells and piping located below grade have been abandoned-in-place on the Property. If such abandoned-in-place wells and piping are encountered during excavation activities at the Property, they shall be inspected to assure that all annulus spaces (defined below) are grouted and capped such that no openings exist that could provide rapid transport of liquids to the underlying aquifer. If any annulus spaces with openings are detected, such openings shall be grouted and capped at the time of disturbance in accordance with well abandonment practices utilized by the DEP. (Annulus, or annular space, is the space between a penetrant and whatever surrounds it, such as the sides on an opening or a sleeve, as the case may be.)
 - c. Except for environmental cleanup activities directed by the Agencies, liquids shall not be discharged or injected to the subsurface of the Property without the express written permission of the Agencies.
 - d. Except for environmental cleanup activities directed by the Agencies, wastes, as defined in Maine Solid Waste Management Rules, Chapter 400, without limitation, shall not be accumulated, stored, or stockpiled on the Property, and a junkyard or automotive graveyard, as defined in 30 M.R.S. §3752, without limitation, shall be prohibited at the Property.
 - e. Any buildings constructed on the Property shall be equipped with a sub-slab vapor barrier and ventilation system that is pre-approved by the Agencies, or a sub-slab active depressurization system that is pre-approved by the Agencies. Any such system shall be properly maintained and effectively operated in accordance with an Agency approved operations plan.
 - f. Activities that interfere with the remedy and on-site monitoring equipment are prohibited.
4. Agencies and Holder. DEP is an environmental Agency with enforcement authority pursuant to the UECA and is the only Holder of this Environmental Covenant. DEP is also the Grantor, as Receiver, of this Environmental Covenant. Additionally, EPA has and will continue to determine and approve the Environmental Response Project, so EPA is also an environmental Agency with enforcement authority pursuant to the UECA, 38 M.R.S. § 3002(2). In accordance to the UECA, 38 M.R.S. § 3003(2), EPA's right to enforce under the UECA is not an interest in real property. Together DEP and EPA are "the Agencies".
5. Perpetuity of Covenant. This Environmental Covenant and each and every covenant herein shall be a covenant running with the land in perpetuity and shall be binding on Grantor and any future owner of any portion of, or interest in, the Property during their respective periods of ownership until amended or terminated in accordance with the UECA.
6. Representation of Ownership and Encumbrances. By its execution hereof, Grantor acknowledges it is the Receiver of the Property, as set forth in Court's June 5, 1986 Order, that it has received the Quitclaim Deed from the Town, and that there are no mortgages, easements, or other encumbrances on the Property that would materially adversely affect the effectiveness or enforceability of this Environmental Covenant.

7. Access. In addition to any rights already possessed by DEP and EPA, this Environmental Covenant grants to EPA and DEP, including their authorized employees, agents, representatives and independent contractors and subcontractors, a right of access to the Property, without cost and upon presentation of credentials, for the purposes of conducting visual inspections of the condition of the Property, monitoring and enforcing this Environmental Covenant, and implementing, facilitating and monitoring any ongoing or future Environmental Response Project or other remedial action tasks/activities.
8. Notice to Tenants and Others. Grantor as Receiver and all subsequent owners of the Property, during the period of their respective ownership of the Property, shall provide notice of this Environmental Covenant to any tenants or lessees thereof and to any other person conducting any activity on the Property that is restricted by this Environmental Covenant, which notice shall be provided prior to such occupancy or activity.
9. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion thereof including but not limited to deeds, leases and mortgages, shall contain a notice that is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A
DECLARATION OF ENVIRONMENTAL COVENANT, RECORDED IN THE KNOX
COUNTY REGISTRY OF DEEDS ON _____, 2017 IN BOOK _____, PAGE
_____, IN FAVOR OF AND ENFORCEABLE BY THE STATE OF MAINE AND THE
UNITED STATES OF AMERICA.

10. Notice of Noncompliance. Grantor and all subsequent owners of the Property, during the period of their respective ownership of the Property, shall provide written notice to EPA and DEP within ten (10) working days of discovery of any noncompliance with this Environmental Covenant.
11. Notice Pursuant to Covenant. Any notice or other communication required pursuant to this instrument shall be in writing and shall be sent by certified mail, return receipt requested, or by any commercial carrier that provides proof of delivery, addressed as follows, or to such other address as each entity may designate from time to time by written notice to the other entities:

To EPA:

Remedial Project Manager
Union Chemical Company, Inc. Superfund Site
U.S. Environmental Protection Agency, Region 1 - New England
5 Post Office Square
Mail Code: Suite 100 (OSRR07-1)
Boston, MA 02109-3912

To DEP:

Superfund Program Manager
Department of Environmental Protection
Bureau of Remediation and Waste Management
17 State House Station
Augusta, Maine 04333

12. Inspection and Reporting. Grantor and any subsequent owners of the Property, during the period of their respective ownership of the Property, shall conduct inspections of the Property annually to determine compliance with the covenants, restrictions, agreements and obligations contained herein, and shall report the results to the Agencies in writing by June 30th of each year.
13. Enforcement. This Environmental Covenant shall be enforceable as authorized by the UECA. Any forbearance as to enforcement of any of the terms hereof shall not be deemed a waiver of the right to seek and obtain enforcement at any time thereafter as to the same violation or as to any other violations.
14. Amendment or Termination. The terms and conditions herein may not be amended or terminated except in accordance with the UECA.
15. Petition to Amend. The current owner of the Property may petition the Agencies to amend (including without limitation to, remove) some or all of the covenants, restrictions, agreements and obligations herein. The burden is upon the party seeking the Agencies' approval of the amendment or removal of a restriction to show that the restriction is no longer necessary to protect the public health and safety and the environment. The Agencies may agree to remove or amend restrictions that, in the exercise of their sole discretion, the Agencies determine to be no longer necessary to protect the public health and safety and the environment. Any such amendment or termination of the Environmental Covenant must comply with the UECA and the provisions of this Environmental Covenant.
16. Administrative Record. The Environmental Response Project described in this Environmental Covenant is based on the Union Chemical Company, Inc. Superfund Site Administrative Record, which has been developed in accordance with § 113(k) of CERCLA, and which is available for review at the United States Environmental Protection Agency, Region 1, OSRR Records Center, 5 Post Office Square, Boston, Massachusetts. The State administrative record for the Environmental Response Project related to this Environmental Covenant is located at the main office of DEP, whose mailing address is 17 State House Station, Augusta, ME 04333-0017, with a street address of Ray Building, 28 Tyson Drive, Augusta, Maine. The administrative record may be found under the name Union Chemical Co., Hope.
17. Governing Law. This Environmental Covenant shall be governed and interpreted in accordance with the laws of the State of Maine.
18. Liberal Construction. It is intended that this Environmental Covenant be construed liberally to protect the health and welfare of the public and the quality of the environment from the risk of adverse effects of exposure to contaminants.
19. Effect of Failure to Provide Notice. The validity of this Environmental Covenant is not affected by any failure of Grantor or subsequent owners to provide notice as required in this Environmental Covenant.
20. Invalidity. If any part of this Environmental Covenant shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.

- 21. Recording. Grantor shall cause this Environmental Covenant to be duly recorded in the Knox County Registry of Deeds within sixty (60) days after the date of the last required signature.
- 22. Notice of Environmental Covenant. Grantor shall, within sixty (60) days of recording, provide EPA with a copy of such recorded Environmental Covenant, duly certified by the Register of Deeds. Within ninety (90) days of recording the Grantor shall also provide a copy of this Environmental Covenant to each person who signed the covenant, each person holding a recorded interest in the Property, each person in possession of the Property, and each municipality or other unit of local government in which the Property is located.

IN WITNESS WHEREOF, Grantor as Receiver, **THE STATE OF MAINE ACTING BY AND THROUGH THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND AS RECEIVER**, has caused this instrument to be executed by its duly authorized representative as of the day and year first above written.

By: David E. Burns
 Name: David E. Burns
 Title: Director, Bureau of Remediation and Waste Management

STATE OF MAINE
 Kennebec COUNTY, ss.

The above-named David E. Burns personally appeared before me this 17th day of June, 2017 in his capacity as Director of the Bureau of Remediation and Waste Management, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of the Maine Department of Environmental Protection.

Laura L. Gay
 Notary Public
Laura L. Gay
 Printed Name
 My Commission Expires: 9/24/2022

SEAL

ACKNOWLEDGED AND AGREED TO BY:
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION (HOLDER)

By: David E. Burns
Name: David E. Burns
Title: Director, Bureau of Remediation and Waste Management

STATE OF MAINE
Kennebec COUNTY, ss.

The above-named David E. Burns personally appeared before me this 19th day of June, 2017 in his capacity as Director of the Bureau of Remediation and Waste Management, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of the Maine Department of Environmental Protection.

Laura L. Gay

Notary Public

Laura L. Gay

Printed Name

My Commission Expires: 9/24/2022

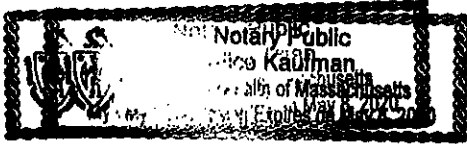
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ACKNOWLEDGED AND AGREED TO BY:
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: [Signature]
Name: Bryan Olson
Title: Director, Office of Site Remediation and Restoration, U.S. EPA, Region 1

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK COUNTY, ss.

On this 28 day of June, 2017, before me, the undersigned notary public, personally appeared Bryan Olson, proven to me through satisfactory evidence of identification, which was, EPA ID, to be the person whose name is signed on this document, and acknowledged to me that he signed it voluntarily for its stated purpose.



[Signature]
Notary Public
Alice Kaufman
Printed Name
My Commission Expires: May 8, 2020

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